

## **REMARKS**

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner.

Upon entry of the instant Amendment, Claims 1-18 will be all of the claims presently pending before the Examiner. Instantly, Claims 1-11 are amended and Claims 13-18 are newly added. Applicants respectfully submit that no new matter has been added by the present amendments. Support for the amendments can be found generally throughout the Applicants' disclosure. It should also be noted that this Amendment is not in acquiescence of the Office's position on the allowability of the claims but made merely to expedite prosecution.

The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks.

### **I. Abstract**

Applicants previously submitted amended Abstract was not accepted for those reasons provided in the outstanding Office Action. Therefore, Applicants as indicated above again request the amendment of the Abstract.

A clean amended Abstract is also submitted herewith on a separate sheet in accordance with 37 CFR 1.52(b)(4).

### **II. Claim Rejections**

#### **A. 35 U.S.C. 112, Second Paragraph**

Claim 2 is rejected as being indefinite. Applicants have revised the Markush-type claim language. Withdrawal of the rejection is proper at this juncture.

#### **B. 35 U.S.C. 103(a)**

Claims 1-12 stand rejected under 35 U.S.C. 103(a) as obvious in view of Heuer

et al., USPN 5,874,025 (hereinafter "Heuer"). Applicants traverse these rejections for the reasons to follow.

As best understood, Heuer "[r]elates to alkanolamine-free/low-alkanolamine wood preservative comprising at least polyaspartic acid or derivatives thereof, a copper compound, a triazole compound which forms a synergistic complement to optionally one further fungicide and/or insecticide, and, if appropriate, an emulsifier and/or small amount of alkanolamine." (Col. 1, Lines 9-15)

As provided by the Office, "Heuer et al. differ from applicant's claimed invention in that there is not a direct teaching (i.e. by way of example) to where a wood preservative composition comprising triadimefon and/or triadimenol is actually applied to or incorporated into wood based products, such as plywood or chipboards, that are made using a binder, such as a glue." (Office Action, Pages 3-4) The Office opines that it would have been obvious to incorporate a wood preservative composition comprising triadimefon and/or triadimenol into the glue binder used to make plywood and/or chipboard type wood products. (Id. at 4)

Instantly, Claims 1-14 have been amended to now recite, *inter alia*, "an alkaline glue or glue system". Furthermore, newly added Claims 13 and 15 define said alkaline glue or glue system as being selected from the group consisting of a urea based system, a urea-phenol based system, a phenol-melamine(formaldehyde)resin system, a melamine(formaldehyde)-urea resin system; a polyvinyl alcohol based system; a polymeric methylene diphenyldiisocyanate system, and mixtures thereof." Also newly added Claims 14 and 16 further define said alkaline glue system as having a pH greater than or equal to 8.

As explained in the Applicants' disclosure, the use of triazoles, such as tebuconazole and propiconazole, as wood preservatives in alkaline glue or glue systems results in their degradation. Thus, the use of triazoles such as tebuconazole and propiconazole in alkaline glue systems is simply unsatisfactory. Instead, it is

known to those skilled in that art to instead use other compounds which are more effective when applied to alkaline glue or glue systems. For example, such active compounds include synthetic pyrethroids, such as permethrin, cypermethrin, alpha-cypermethrin, deltamethrin, cyfluthrin, along with bifenthrin-, neo-nicotinoids, such as imidacloprid, clothianidin, acetamiprid, thiamethoxam-, chlorfenapyr, and fipronil.

In light of the above, it is clear a person having ordinary skill in the art could not have predicted the usability of the triazoles triadimefon and triadimenol as wood preservative actives in alkaline glue or glue systems as is now presently claimed nor would such a person have expected that the same would prove to be successful. It is respectfully submitted, the presently claimed invention as set forth in Claims 1-16 is novel and, moreover, not obvious. The obviousness rejections should now be withdrawn.

In addition, with respect to newly added Claims 17 and 18 may the Applicants briefly offer the following comments for the Examiner's consideration with respect to the cited art. As indicated above, Heuer relates to a preservative composition comprising as active ingredients at least one copper compound, polyaspartic acid (or a derivate thereof), and a triazole. Optionally, a further active ingredient complimenting the triazole may be included as well. Newly added Claims 17 and 18 provide for a closed set of active ingredients that do not include those as disclosed and required by the Heuer reference. Therefore, these newly added claims are also in condition for allowance.


### **III. Conclusion**

In view of the foregoing, it is respectfully submitted that independent Claims 1, 7, 17, and 18 are fully distinguishable over the applied art and are thus in condition for allowance. By virtue of dependence from what is believed to be allowable independent Claims 1 and 7, it is respectfully submitted that Claims 2-6 and 8-16 are also presently allowable. Notice to the effect is earnestly solicited.

If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

The USPTO is hereby authorized to charge any fees, including any fees for an extension of time or those under 37 CFR 1.16 or 1.17, which may be required by this paper, and/or to credit any overpayments to Deposit Account No. 50-2527.

Respectfully,

By 

Nicanor A. Köhncke  
Attorney for Applicants  
Reg. No. 57,348

LANXESS Corporation  
Law & Intellectual Property Department  
111 RIDC Park West Drive  
Pittsburgh, Pennsylvania 15275-1112  
(412) 809-2234  
FACSIMILE PHONE NUMBER:  
(412) 809-1054

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